

September 3, 2003

## BUSINESS

### Lawyers call music industry search illegal

By Ted Bridis  
ASSOCIATED PRESS

WASHINGTON — Lawyers for a New York woman accused of unlawfully sharing music over the Internet suggested Tuesday the recording industry acted illegally when it investigated her online activities and that a search of music files on her computer may have been unconstitutional.

The lawyers — Richard S. Ugelow, Glenn W. Peterson and Daniel N. Ballard — are asking a federal magistrate to delay at least until Sept. 10 ordering the woman's Internet provider to turn over her name and address to the Recording Industry Association of America, the trade group for the largest labels.

In court papers, the lawyers said they may argue that the RIAA violated state and federal laws by intercepting the woman's Internet address as its investigators scoured file-sharing networks looking for songs to download.

The woman, identified in court papers only as "nycfashiongirl," is contesting a copyright subpoena served by the music industry on her Internet provider, Verizon Internet Services Inc., to turn over her name and address in preparation for filing a lawsuit.

She is the first to resist such a subpoena.

The RIAA, which has served more than 1,300 such subpoenas, accuses "nycfashiongirl" of of-

fering more than 900 songs by the Rolling Stones, U2, Michael Jackson and others for illegal download, along with 200 other computer files that included at least one full-length movie, "Pretty Woman."

The defense team said it also may argue that the music industry was improperly affiliated with law enforcement and thus its perusal of music files allegedly available on the woman's computer violated Fourth Amendment protections against unreasonable searches.

RIAA vice president Matt Oppenheim called the defense arguments "surprisingly shallow," adding that the claim raising questions about the woman's Internet address "reflects a fundamental misunderstanding of how the Internet works."

Oppenheim also said the RIAA was not affiliated with law enforcement, so restrictions against unreasonable searches do not apply.

"The Fourth Amendment clearly doesn't apply to private parties. You learn that in first-year law school," Oppenheim said.

An outside lawyer agreed.

"Those are two more straws to grasp at," said Evan Cox of Covington & Burling, who has worked with the Business Software Alliance on piracy. "They're not going to get anywhere with that."